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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,276	11/02/2001	Spencer W. Beaufore	OPME / 05	8989

26875 7590 04/05/2005  
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EXAMINER

BOGART, MICHAEL G

ART UNIT PAPER NUMBER

3761

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/000,276	<b>Applicant(s)</b> BEAUFORE ET AL.	
	<b>Examiner</b> Michael G. Bogart	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-19,21-32,34-50 and 53-111 is/are pending in the application.
- 4a) Of the above claim(s) 45 and 47 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-19,21-32,34-43,50,53-66 and 79-111 is/are allowed.
- 6) ☒ Claim(s) 44,46,48,49 and 67 is/are rejected.
- 7) ☒ Claim(s) 68-78 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

Claim 19 is objected to because of the following informalities:

Claim 19 recites the limitation "said band" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

### *Claim Rejections 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 44, 48 and 49 are rejected under 35 U.S.C. § 102(b) as being anticipated by Boehmer *et al.* (US 4,924,923).

Regarding claim 44, Boehmer *et al.* teach a flow control valve comprising:

a valve member (30) having a normally closed inlet orifice (56); and

a crush limiting member (55) associated with said valve member (col. 3, lines 28-52)(see figs. 2, 4 and 6, below).

Regarding the crush limiting member or rim (55), it is noted that it is of greater thickness which forms a stiffer rim. This construction makes it more resistant to crushing by external forces applied to the valve (30).

Regarding claim 49, Boehmer *et al.* teach a double duckbill valve (fig. 4).

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Claim 67 is rejected under 35 U.S.C. § 102(b) as being anticipated by Soucy (US 3,387,624).

Soucy teaches a catheter-like tube (1) comprising:

a liquid discharge passageway;

a liquid flow control valve associated with said urine discharge passageway;

said liquid flow control valve being a double-duckbill valve;

said double-duckbill valve having an inlet orifice (10) operable to control liquid flow therethrough; and

an elastomeric band (11, 12) disposed about said double-duckbill valve and operable to urge said inlet orifice to a closed position (fig. 10).

Regarding the claimed limitation of the device being a urinary catheter, there are no limitations in the claim that positively distinguish this physical structure from a simple tube.

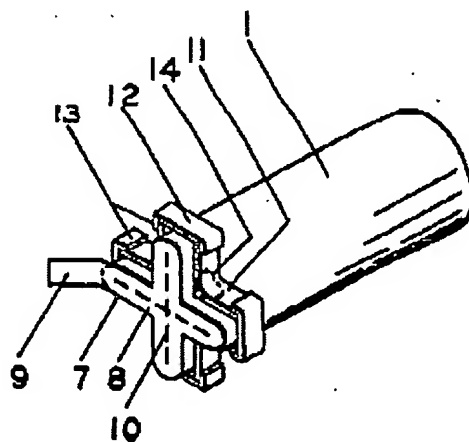


FIG. 10

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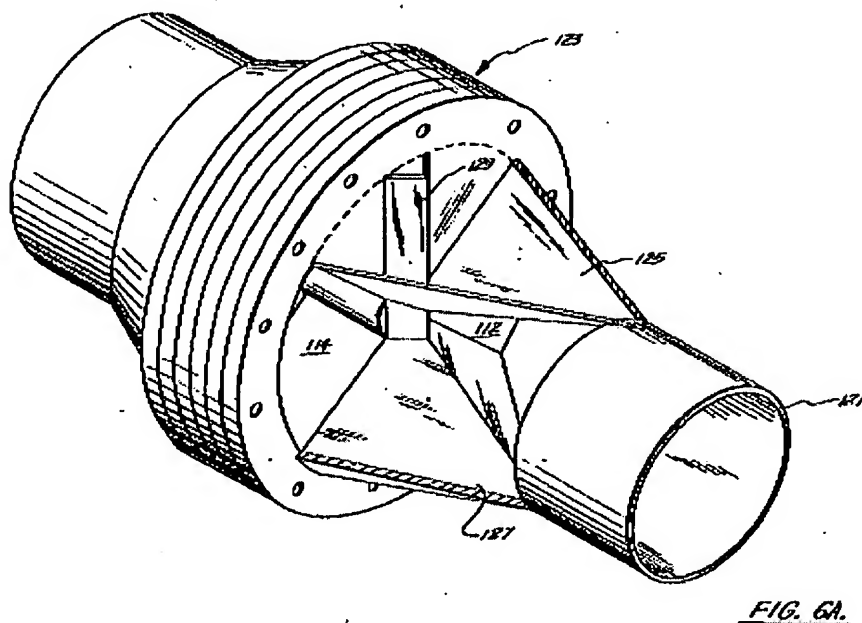
Claims 44 and 46 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wolff (US 4,685,840).

Regarding claim 44, Wolff teaches a flow control valve comprising:

a valve member (123) having a normally closed inlet orifice (114); and

a crush limiting member (125, 127, 129) associated with said valve member (123)(fig.

6A).



Regarding claim 46, Wolff teaches a crush limiting member including a blade member (125, 127, 129) disposed within said valve member (123).

***Allowable Subject Matter***

Claims 1, 4-19, 21-32, 34-43, 50, 53-66 and 79-111 are allowed.

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Claims 68-78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

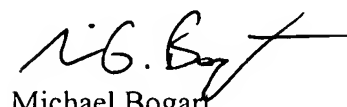
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

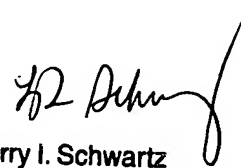
In the event the examiner is not available, the Examiner's supervisor, Larry Schwartz may be reached at phone number (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
23 March 2005



Larry I. Schwartz  
Supervisory Patent Examiner  
Group 3700